

RHS, RBS, RUS, FSA, USDA

§ 1941.54

The following FmHA or its successor agency under Public Law 103-354 forms will be completed and utilized as necessary in preparing the loan docket for approval:

Form No.	Name	
400-4	Assurance Agreement	(*)
1927-8	Agreement with Prior Lienholder	(*)
1940-1	Request for Obligation of Funds	(*)
440-4	Security Agreement (Chattels and Crops)	(*)
440-9	Supplementary Payment Agreement	(*)
1940-20	Request For Environmental Information	(*)
440-25/440A25	Financing Statement	(*)
440-26	Consent and Subordination Agreement	(*)
1940-21, 1940-22, or Exhibit H, Subpart G of Part 1940	Environmental Review	(*)
441-5	Subordination Agreement	(*)
441-8	Assignment of Proceeds from the Sale of Products	(*)
441-10	Nondisturbance Agreement	(*)
441-12	Agreement for Disposition of Jointly Owned Property	(*)
441-13	Division of Income and Nondisturbance Agreement	(*)
441-17	Certification of Obligation to Landlord	(*)
441-18	Consent to Payment of Proceeds from Sale of Farm Products	(*)
441-25	Assignment of Proceeds from the Sale of Dairy Products and Release of Security Interest	(*)

LOAN APPROVAL AND CLOSING

A. LOAN APPROVAL

File financing statement or chattel mortgage, and obtain a lien search.

Request preliminary title opinion when appropriate.

Record loan closing conditions in the running record.

Execute and distribute all forms necessary for loan approval.

B. LOAN CLOSING

Request needed legal services.

Arrange for loan closing by county office, escrow agent, designated attorney, or other authorized loan closing agent; furnish loan closing agent with appropriate instructions, forms, and other needed information for loan closing.

The following FmHA or its successor agency under Public Law 103-354 forms will be used by the County Office in addition to those forms listed under docket preparation which must be executed by the borrower or other party:

Form No.	Name	
400-6	Compliance Statement	(*)
402-1	Deposit Agreement	(*)

Form No.	Name	
402-2	Statement of Deposits and Withdrawals	(*)
427-1 (State)	Real Estate Mortgage or Deed of Trust for	(*)
1927-9	Preliminary Title Opinion	(*)
1940-17	Promissory Note	(x)

(7 U.S.C. 1989; 42 U.S.C. 1480; 5 U.S.C. 301; sec. 10, Pub. L. 93-357, 88 Stat. 392; 7 CFR 2.23; 7 CFR 2.70)

[43 FR 55883, Nov. 29, 1978]

EDITORIAL NOTE: For FEDERAL REGISTER citations affecting exhibit A to subpart A of part 1941, see the List of CFR Sections Affected, which appears in the Finding Aids section of the printed volume and on GPO Access.

EXHIBIT B TO SUBPART A OF PART 1941 [RESERVED]

EXHIBIT C TO SUBPART A OF PART 1941— CONTROLLED SUBSTANCE

(NOTE: Exhibit C referenced in this subpart is available in any FmHA or its successor agency under Public Law 103-354 office.)

[53 FR 35684, Sept. 14, 1988]

Subpart B—Closing Loans Secured by Chattels

§ 1941.51 Purpose.

This subpart prescribes Farmers Home Administration (FmHA) or its successor agency under Public Law 103-354 policies, procedures, and authorizations for closing direct loans secured by chattels. These loans are considered closed on the date the promissory note is executed.

[43 FR 55883, Nov. 29, 1978, as amended at 58 FR 48282, Sept. 15, 1993]

§§ 1941.52–1941.53 [Reserved]

§ 1941.54 Promissory note.

(a) *Executing the note.* Form FmHA or its successor agency under Public Law 103-354 1940-17, "Promissory Note," will be executed and dated following receipt of the loan check in the county office and prior to the first withdrawal of loan funds from the supervised bank account or delivery of the loan check to the borrower.

(b) *Signatures—(1) Individuals.* Only the applicant is required to sign the promissory note. Any other signatures

needed to assure the required security will be obtained as provided in State supplements. A cosigner will be required only when it has been determined that the applicant cannot possibly meet the repayment requirements for the loan request. Persons who are minors (except a youth obtaining a youth loan), mental incompetents, or noncitizens will not execute a promissory note. Except when a person has pledged only property as security for a loan, the purpose and effect of signing a promissory note or other evidence of indebtedness for a loan made or insured by FmHA or its successor agency under Public Law 103–354 is to incur individual personal liability regardless of any State law to the contrary. A youth executing a promissory note shall incur full personal liability for the indebtedness evidenced by such note.

(2) *Entities.* The promissory note(s) will be executed so as to evidence liability of the entity as well as individual liability of all members of the entity.

[43 FR 55883, Nov. 29, 1978, as amended at 51 FR 13448, Apr. 21, 1986; 53 FR 35691, Sept. 14, 1988; 58 FR 48286, Sept. 15, 1993; 68 FR 7697, Feb. 18, 2003]

§§ 1941.55–1941.56 [Reserved]

§ 1941.57 **Security instruments.**

Security instruments referred to in this subpart are financing statements, security agreements, chattel mortgages, and similar lien instruments. To obtain a security interest in chattels and crops in States which have adopted the Uniform Commercial Code (UCC), both a financing statement and a security agreement are required, although only the financing statement must be filed or recorded in public records. See paragraph (g) of this section for filing or recording instructions. In Louisiana a Chattel Mortgage and Crop Pledge or Crop Pledge, as appropriate, is required to obtain a security interest in chattels and crops.

(a) *Executing security instruments by borrowers.* State supplements will be issued, as necessary, to carry out the provisions of this paragraph. In order to close the loan and obtain the desired lien, security instruments will be executed by appropriate entity officials,

on behalf of an entity borrower. Any other signatures needed to assure the required security will be obtained as provided in State supplements. A cosigner will be required only when it has been determined that the applicant cannot possibly meet the security requirements for the loan request.

(b) *Undivided interests.* An applicant obtaining a loan to finance an undivided interest in security or to refinance debts on an undivided interest in such property will secure the loan with a lien on the undivided interest in the property. All individuals having an undivided interest in the security will execute Form FmHA or its successor agency under Public Law 103–354 441–12, “Agreement for Disposition of Jointly-Owned Property”, unless a written agreement to the same affect as this form has already been signed.

(c) *Security instrument forms.* (1) Form FmHA or its successor agency under Public Law 103–354 440–25, “Financing Statement,” or Form FmHA or its successor agency under Public Law 103–354 440A–25, “Financing Statement (Carbon-Interleaved)”; and Form FmHA or its successor agency under Public Law 103–354 440–4, “Security Agreement (Chattels and Crops),” will be used to obtain security interests in chattel property in States which have adopted the Uniform Commercial Code (UCC), unless a State supplement requires the use of other forms.

(2) Form FmHA or its successor agency under Public Law 103–354 440–4 LA, “Chattel Mortgage and Crop Pledge (Louisiana),” or Form FmHA or its successor agency under Public Law 103–354 440–4A LA, “Crop Pledge (Louisiana),” will be used in the State of Louisiana.

(3) Other forms will be used as provided in State supplements in Puerto Rico, Guam, American Samoa and the Northern Mariana Islands.

(d) *Taking security instruments—(1) Financing statement.* A financing statement is effective for 5 years from the date of filing and as long thereafter as it is continued by filing a continuation statement.

(i) *Initial loan.* A financing statement will be required for every initial loan except when a filed financing statement covering the applicants property